

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Percy Lavae Bacon,

Plaintiff

v.

Robert B. Bannister et al.,

Defendants

Case No. 2:15-cv-01874-JAD-NJK

**Order Denying Application to Proceed  
*In Forma Pauperis***

[ECF 7]

Pro se plaintiff Percy Lavae Bacon brings this action under 42 U.S.C. § 1983 for civil-rights violations he alleges occurred during his incarceration at the Nevada Department of Corrections' Southern Desert Correctional facility. He applies for *in forma pauperis* status to relieve him of the up front fee payment obligation, and moves for a temporary restraining order, a preliminary injunction, court-appointed counsel, and to extend his copy work limit.<sup>1</sup>

**Discussion**

This is not Bacon's first action. On at least three occasions, this court and the Ninth Circuit Court of Appeals have dismissed civil actions Bacon filed while in detention as frivolous or for failure to state a claim upon which any relief may be granted.<sup>2</sup> And, unfortunately for Bacon, 28 U.S.C. § 1915(g) places limits on *in former pauperis* status: "if [a] prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted," he may not proceed *in forma pauperis*. Instead, he must pay the full \$400 filing fee in advance unless he is "under imminent danger of serious physical

---

<sup>1</sup> ECF 1-1, 2, 3, 4, 5, 7.

<sup>2</sup> See *Bacon v. Laswell*, 2:09-cv-02058-PMP-PAL (district court dismissed the case for failure to state a claim, and appellate court dismissed appeal as frivolous); *Bacon v. State Of Nevada*, 2:10-cv-01451-KJD-LRL (same).

injury.”<sup>3</sup>

In his complaint, plaintiff appears to be challenging actions related to (1) the denial of his requests for cataracts surgery in 2007, 2008, and 2010; (2) sanctions issued by Judge Kent Dawson in 2014; and (2) retaliation in 2011.<sup>4</sup> He seeks monetary damages.<sup>5</sup> I find that these allegations fail to plausibly allege that Bacon is in imminent danger of serious physical injury for events that happened years ago.<sup>6</sup> Accordingly, he must pre-pay the \$400 filing fee in full if he wants to proceed with this suit.

### Conclusion

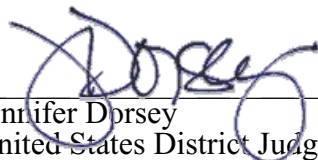
Accordingly, IT IS HEREBY ORDERED, ADJUDGED and DECREED that plaintiff’s application to proceed *in forma pauperis* [ECF 7] is **DENIED**.

IT IS FURTHER ORDERED that **plaintiff must pay the full \$400 filing fee by March 3, 2016, or this case will be dismissed** without prejudice.

The Clerk of the Court is directed to send plaintiff two copies of this order. **Plaintiff must make the necessary arrangements to have one copy of this order attached to the check** paying the filing fee.

IT IS FURTHER ORDERED that the Clerk of the Court must retain the complaint [ECF 1-1]; the court reserves decisions on the outstanding motions [ECF 2, 3, 4, 5] until the matter of the filing fee is resolved.

DATED this 2nd day of February, 2016.

  
Jennifer Dorsey  
United States District Judge

<sup>3</sup> 28 U.S.C. § 1915(g).

<sup>4</sup> See generally ECF 1-1.

<sup>5</sup> *Id.* at 14.

<sup>6</sup> See *Andrews v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007) (holding that the exception to § 1915(g) applies if the complaint makes a plausible allegation that the prisoner faced an imminent danger of serious physical injury at the time of filing).